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Via CM/ECF

April 8, 2022

Hon. Denise Cote, U.S.D.J.  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1910  
New York, New York 10007

**RE: *Michelle Chicco v. First Unum Life Insurance Company*, No. 1:20-cv-10593-DLC  
LETTER MOTION TO SEAL CONFIDENTIAL EXHIBITS**

Your Honor:

Pursuant to Fed R. Civ. P. 5.2, and Section 8(b) of Your Honor's Individual Practices in Civil Cases, Plaintiff Michelle Chicco respectfully moves this Court for an order to maintain under seal two exhibits to the April 8, 2022 Affirmation of Scott M. Riemer:

Exhibit A: The 2020 Finance & Operations Report of AmLaw Second 100, issued June 2021, by PricewaterhouseCoopers LLP, and

Exhibit B: Retainer agreements of the 10 most recent hourly rate clients of Riemer Hess LLC, including the hourly rate litigation retainer agreement with a current client in a pending litigation.

Good cause exists to maintain these exhibits under seal. Ms. Chicco has designated both of these documents as confidential under the So-Ordered Stipulated Confidentiality Agreement and Protective Order (ECF No. 26).

District courts within the Second Circuit "enjoy[] considerable discretion in determining whether good cause exists to overcome the presumption of open access to documents filed in federal courts." *Geller v. Branich Intl' Realty Corp.*, 212 F.3d 734, 738 (2d Cir. 2000).

Exhibit A consists of a highly confidential report of PricewaterhouseCoopers that is intended for internal benchmarking and decisionmaking. It is not intended to be disclosed to third parties, and its disclosure would result in commercial damage to Riemer Hess because the information could be used by competitors without paying a fee. *See United States v. Amodeo*, 71 F.3d 1044, 1051 (2d Cir. 1995) ("Commercial competitors seeking an advantage over rivals need not be indulged in the name of monitoring the courts."). Riemer Hess's relationship with PricewaterhouseCoopers would also be

damaged. When Riemer Hess purchased this report, PricewaterhouseCoopers instructed that it does not condone the use of the data in a way that “would either make the information available to non-participants or identify or expose participating law firms to other participants or non-participants.”

Exhibit B should be maintained under seal because it contains highly proprietary material that implicates the attorney-client privilege. The exhibit consists of the actual terms of agreements with Riemer Hess clients, including retainer amounts, fee ranges, and the names of insurance companies administering the claims of Riemer Hess clients.

The information in Exhibit B is confidential because it implicates the attorney client privilege. *See EEOC v. Kelley Drye & Warren, LLP*, 2012 U.S. Dist. LEXIS 28724, at \*13 (S.D.N.Y. Mar. 2, 2012) (allowing redaction to “conceal client names and other client-identifying information implicating the attorney-client privilege”).

The information in Exhibit B is also confidential because it is highly proprietary. *See GoSMiLE, Inc. v. Dr. Jonathan Levine, D.M.D. P.C.*, 769 F. Supp. 2d 630, 649-50 (S.D.N.Y. 2011) (granting motion to seal exhibits to motion for preliminary injunction that “contain[ed] highly proprietary material concerning the defendants’ marketing strategies, product development, costs and budgeting”); *cf. United States v. Amodeo*, 71 F.3d 1044, 1051 (2d Cir. 1995) (“Commercial competitors seeking an advantage over rivals need not be indulged in the name of monitoring the courts.”).

For all of the foregoing reasons, Ms. Chicco respectfully requests that the Court enter an order to maintain under seal Exhibits A and B to the April 8, 2022 Affirmation of Scott M. Riemer.

Dated: New York, New York

April 8, 2022

Respectfully Submitted,

*Gravitated.*

*Jennifer L. Hess*  
4/8/22

By: /s/ Jennifer L. Hess

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